

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RODNEY CLARENCE KENNARD,

Plaintiff,

Case No: 15-13889

Hon. Victoria A Roberts

Magistrate Judge Patricia T. Morris

v.

GNATEK, et al.

Defendants.

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ORDER GRANTING DEFENDANTS' MOTION TO DISMISS [ECF. NO. 21]

Defendants filed a motion to dismiss (**Doc. # 21**) for failure to state a claim, pursuant to Federal Rules of Civil Procedure 12(b)(6). Defendants argue that Plaintiff Rodney C. Kennard ("Kennard") does not plead sufficient factual allegations to state a violation of the Eighth Amendment to the United States Constitution. Kennard did not respond to the Motion.

Kennard asserts an Eighth Amendment claim, based on Defendants' alleged verbal and physical assault in his interrogation after his arrest. But, the cruel and unusual punishment clause applies only "after [the government] has secured a formal adjudication of guilt in accordance with due process of law," and does not apply to pretrial detainees. See *Ingraham v. Wright*, 430 U.S. 651, 671 n.40 (1977); *Bell v. Wolfish*, 441 U.S. 520, 535 n.16 (1979). Kennard does not have a claim under the Eighth Amendment; because his allegations relate to his pre-trial detention. Kennard's

complaint fails to articulate a plausible claim. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

The Court **GRANTS** Defendants' Motion and **DISMISSES** the complaint.

Plaintiff filed a motion for summary judgment (Doc. #19). This order disposes of the entire case and there is no need for the Court to address Plaintiff's motion.

IT IS ORDERED.

s/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: October 6, 2016

The undersigned certifies that a copy of this document was served on the attorneys of record and Rodney Clarence Kennard by electronic means or U.S. Mail on October 6, 2016

s/Linda Vertriest
Deputy Clerk